



Election/ #8  
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	Leon W.M.M. Terstappen, et al.	Examiner:	Yaen, Christopher H.
Serial No.:	09/865,048	Group Art Unit:	1645
Filed:	May 24, 2001	Confirmation No.:	2993
For:	<b>PHAGE ANTIBODIES</b>	Docket:	890-2FWC/CIP/CPA/CON
		Dated:	October 18, 2002

Commissioner for Patents  
Washington, DC 20231

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**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

This Response is submitted in reply to the Restriction Requirement issued in  
connection with the above-captioned application on October 2, 2002.

Claims 9-52 are pending. In the Office Action of October 2, 2002 the Examiner  
required restriction under 35 U.S.C. 121 to one of the following allegedly distinct inventions:

- I. Claims 9-16, 19-29, drawn to a method of obtaining phage particles  
comprising an antibody fragment directed against antigens expressed on the  
cell surface of a target-cell, classified in class 435, subclass 5.
- II. Claims 17 and 30, drawn to a cell-type specific library of phage particles,  
classified in class 435, subclass 5.

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III. Claims 18 and 31-52, drawn to an antibody and phage antibody, classified in class 530, subclass 387.1.

According to the Examiner, the inventions are distinct from each other. For this reason, the Examiner required election of one of the three groups for further prosecution in this application. The Examiner further advised that an election must be made even though the requirement may be traversed as required under 37 C.F.R. §1.143.

Applicants traverses the requirement for restriction of the examination to one of the above-listed groups (I-III). The Examiner's attention is directed to the prior determination by the U.S. Patent Office in the related application U.S. Serial No. 09/085,072 now issued as U.S. Patent No. 6,262,150 B1 (the '150 patent), that claims related to all three of the above-listed groups of claims constitute a single invention.

The method of pending claims 9-16, 19-29 of the present application is related to the method of issued claims 1-6 of the '150 patent. Likewise, the cell-type specific library of pending claims 17 and 30 of the present application is related to the cell-type specific library of issued claim 7 of the '150 patent. Finally, the antibody or antibody fragment of pending claims 18 and 31-52 of the present application are related to antibody or antibody fragment of issued claim 8 of the '150 patent. A copy of the '150 patent is appended hereto for the Examiner's convenience.

The prior determination that the subject matter of the '150 patent and therefore also of claims 9-52 of the present application constitute a single invention is valid under 35 U.S.C. 282, which states in relevant part:

*"A patent shall be presumed valid."*

Therefore Applicants respectfully request reconsideration and withdrawal of the restriction requirement and examination of claims 9-52 on the merits. However, in an abundance of caution and in compliance with the requirements of 37 C.F.R. §1.143, Applicants provisionally elect the claims of Group I for further prosecution.

No fee is due.

The application is now in condition for examination of all of pending claims 9-52 on the merits, which action is earnestly requested. If any further issues remain to be resolved prior to examination, the Examiner is respectfully invited to contact the undersigned at the telephone number shown below.

Respectfully Submitted,



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